objectives of the approved project. Failure to obtain prior approval of changes to the scope of work or budget may result in suspension, termination, and recovery of grant funds.

**§§ 4284.669–4284.683 [Reserved]**

**§ 4284.684 Exception authority.**

The Administrator may, in individual cases, grant an exception to any requirement or provision of this subpart which is not inconsistent with any applicable law, provided the Administrator determines that application of the requirement or provision would adversely affect USDA's interest.

**§§ 4284.685–4284.698 [Reserved]**

**§ 4284.699 Congress.**

No member of Congress shall be admitted to any share or part of this grant or any benefit that may arise therefrom; but this provision shall not be construed to bar as a contractor under the grant a publicly held corporation whose ownership might include a member of Congress.

**§ 4284.700 OMB control number.**

Dated: January 22, 1998.

**Jill Long Thompson,**

*Under Secretary, Rural Development.*

[FR Doc. 98–2553 Filed 2–2–98; 8:45 am]

**BILLING CODE 3410–XY–U**

## SMALL BUSINESS ADMINISTRATION

## 13 CFR Part 121

## Small Business Size Standards; Engineering Services, Architectural Services, and Surveying and Mapping Services

**AGENCY:** Small Business Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Small Business Administration (SBA) is proposing a size standard of $7.5 million in average annual receipts for general Engineering Services (part of Standard Industrial Classification (SIC) code 8711), $5.0 million for Architectural Services (SIC code 8712) and $3.5 million for Surveying and Mapping Services (SIC code 8713 and part of SIC code 7389). The current size standard for each of these industries is $2.5 million. The proposed revisions are being made to better define the size of business in those industries that the SBA believes should be eligible for Federal small business assistance programs.

**DATES:** Comments must be submitted on or before April 6, 1998.

**ADDRESSES:** Send comments to Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, S.W., Mail Code 6880, Washington D.C. 20416.

**FOR FURTHER INFORMATION CONTACT:** Robert N. Ray, Office of Size Standards, (202) 205–6618.

**SUPPLEMENTARY INFORMATION:** The SBA is proposing a revision to the size standard for general Engineering Services (part of SIC code 8711) from $2.5 million to $7.5 million. The other size standards applicable to Engineering Services under SIC code 8711—Military and Aerospace Equipment, Military Weapons, Marine Engineering, and Naval Architecture—are not being reviewed as part of this proposed rule. The rule also proposes a revision to the size standard for the Architectural Services industry (SIC code 8712) from $2.5 million to $5 million and a revision to the size standard for the Surveying and Mapping Services industry (SIC code 8713 and part of SIC code 7389) from $2.5 million to $3.5 million.

From September 30, 1988 until September 30, 1996, the SBA was prohibited by statute from changing the size standards for general engineering services, architectural services, and surveying and mapping services. These industries are subject to the special procurement procedures of the Small Business Competitiveness Program (Title VII of Pub. L. 100–656, 102 Stat. 3853, 3889). This Program specifies special procedures on the use of small business set-aside contracting for the procurement of services within the four designated industry groups. The designated groups are: Construction (SIC codes 1521–1542, SIC codes 1611–1629, and SIC codes 1711–1799); Engineering, Architectural, and Surveying and Mapping Services (SIC codes 8711, 8712, 8713, and part of SIC code 7389); Refuse Systems and Related Services (SIC code 4953 and part of SIC code 4212); and Non-nuclear Ship Repair (part of SIC code 3731). Over the period of 1988 to 1996, the Program included a provision that prohibited any change to the size standards for the designated industry groups. However, the Small Business Programs Improvement Act of 1996 included an amendment to the Program that repealed the prohibition placed upon the SBA from revising these industries' size standards (see Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Division D, Title I, Section 108, Pub. L. 104–208). In the accompanying legislative history, the Congress indicated that the SBA should take appropriate action to adjust the size standards for the designated industry groups, although no specific guidance was provided on how these size standards should be adjusted by the SBA. At this time, the SBA is proposing increases to the size standards for the general engineering services, architectural services, and the surveying and mapping services industries based on its review of economic and Federal procurement data for these industries. The size standards for the remaining designated industry groups are currently being reviewed by the SBA. A decision will be made in the near future if revisions to any of these industry size standards should be proposed. If so, a proposed rule will be published in the **Federal Register**.

Below is a discussion of the SBA's size standards methodology and the analyses leading to the proposed size standards. This is followed by a discussion of alternative size standards and the estimated economic impact that the proposed size standards, if adopted, would have on Federal Government contracting and the SBA's financial assistance programs.

### Size Standards Methodology

In considering the appropriateness of a size standard, the SBA evaluates the structural characteristics of an industry and the participation of small business in SBA programs. There are four factors describing the structural characteristics of an industry: average firm size; distribution of firms by size; start-up costs; and industry competition. While these four factors are generally considered the most important indicators of industry structure, the SBA will consider and evaluate all relevant information that would assist it in assessing an industry's size standard. Below is a brief description of the four industry structure factors.

1. Average firm size is simply total industry revenues (or number of employees) divided by the total number of firms. The SBA tends to set higher size standards for industries with an average firm size significantly higher than the average firm size of a group of related industries. SBA tends to set lower size standards in industries with a lower average firm size relative to a related group of industries.

2. The distribution of firms by size examines the proportion of industry sales, employment, or other economic activity accounted for by firms of different sizes within an industry. If the preponderance of an industry's output is by smaller firms, this would tend to support a low size standard. The opposite would be the case for an industry in which the distribution of

firms by size indicates that output is concentrated among the largest firms in an industry.

3. Start-up costs affect a firm's initial size because entrants into an industry must have sufficient capital to start a viable business. To the extent that firms in an industry have greater start-up capital requirements than firms in other industries, the SBA would be justified in considering a higher size standard. As a proxy measure for start-up costs, the industry's ratio between total payroll costs to sales is examined. An industry with a relatively low proportion of payroll cost to total sales as compared with the average proportion of other industries would tend to indicate that it is a capital intensive industry. For those types of industries, that circumstance suggests a relatively higher size standard.

4. As an indicator of industry competition, the SBA assesses competition within an industry as measured by the proportion or share of industry sales garnered by producers above a relatively large firm size. For purposes of the analysis in this proposed rule, the proportion of industry sales generated by the four largest firms in an industry is examined—generally referred to as the ''four-firm concentration ratio.'' To the extent that a significant proportion of economic activity within an industry is concentrated among a few relatively large producers, SBA tends to set higher size standards to assist firms in a broader size range to compete with firms that are dominant in the industry.

SBA has established ''anchor'' size standards of 500 employees for the manufacturing and mining industries and $5 million for nonmanufacturing industries. To the extent that the structural characteristics of an industry are significantly different from the average characteristics of industries with the anchor size standard, a size standard higher or lower than the anchor size standard may be supportable. For the industries under review in this proposed rule, the characteristics of the four industry factors for each industry were compared to the average characteristics of the nonmanufacturing industries with the anchor size standard of $5 million (hereafter referred to as the nonmanufacturing anchor group). If the characteristics of an industry are similar to characteristics of the nonmanufacturing anchor group, then the anchor size standard of $5 million is recommended. If, however, the industry characteristics are significantly different than the average characteristics of the nonmanufacturing anchor group, then a size standard above or below $5 million would be appropriate.

As indicated above, the impact of a proposed size standard on SBA's programs is evaluated in addition to industry structure to determine if small businesses defined under the existing size standard are receiving a reasonable level of assistance. This assessment usually involves the calculation of the proportion or share of Federal contracts awarded to small businesses. In general, the lower the share of Federal contract dollars awarded to small businesses in an industry which receives significant Federal procurement revenues, the greater would be the justification for a size standard higher than the existing size standard. In SBA's financial assistance programs, the volume of guaranteed loans within an industry and the size of firms obtaining loans are examined to assess whether the current size standard may be inappropriately restricting the level of financial assistance to firms in that industry.

**Evaluation of Industry Size Standards**

SBA analyzed the size standards for the, engineering, architectural and surveying and mapping services industries by comparing their industry characteristics with the average characteristics of the nonmanufacturing anchor group discussed above. The table below shows the characteristics for each industry and the average characteristics for the nonmanufacturing anchor group. A review of these factors leads to a recommended size standard for each industry.

INDUSTRY CHARACTERISTICS OF THE NONMANUFACTURING ANCHOR GROUP AND THE ENGINEERING, ARCHITECTURE AND SURVEYING SERVICES INDUSTRIES

| Category | Average firm size (millions) | Industry sales by size of firm | | | Payroll to sales (percent) | 4-firm concentration ratio (percent) | Share of gov't procurement (percent) |
|---|---|---|---|---|---|---|---|
| | | $5M (percent) | $10M (percent) | $25M (percent) | | | |
| Nonmanufacturing Anchor Group | $0.85 | 51.0 | 61.0 | 67.0 | 27.0 | 15.0 | N/A |
| Engineering Services | 1.83 | 25.9 | 32.7 | 40.8 | 41.8 | 10.9 | 17.7 |
| Architectural Services | 0.65 | 64.7 | 74.7 | 84.4 | 39.3 | 5.4 | 25.5 |
| Surveying Services | 0.28 | 88.5 | 90.7 | 93.6 | 39.2 | 3.5 | 25.8 |

**General Engineering Services (Part of SIC Code 8711)**

SBA proposes a size standard of $7.5 million for the general engineering services industry based on a review of the industry characteristics shown above, and based on the share of Federal procurements obtained by small business. The average firm size of engineering firms is over twice the average firm size of the nonmanufacturing anchor group, and supports a size standard moderately above the $5 million anchor size standard. The distribution of sales by firm size also supports a size standard significantly above the anchor size standard. Under this factor, the amount of sales obtained by engineering firms of $5 million and less in sales, $10 million and less in sales, and $25 million and less in sales, is significantly less than found for the anchor nonmanufacturing group. The industry factor of payroll to sales shows this industry to be more labor intensive than the nonmanufacturing anchor group. This factor indicates that start-up costs are relatively low and would support a size standard of not more than $5.0 million. The four-firm concentration ratio shows that engineering services is a highly competitive industry where the largest firms in the industry account for a low share of industry sales. This factor also supports a size standard at or below $5 million. However, the percent of Federal contract dollars awarded to small engineering firms during fiscal years 1995 and 1996 is a relatively small share of Federal contracting to small firms and supports a size standard much higher than the current $2.5 million level. Considering these factors in the aggregate, SBA believes that a size standard moderately higher than the anchor size standard is appropriate for engineering services. Accordingly, the

SBA proposes a size standard of $7.5 million for this industry. This size standard is above the standard that would have been established in 1994 for this industry if the SBA had had the authority to change it then based upon inflation since the time of the previous adjustment in 1984.

**Architectural Services (SIC Code 8712)**

A size standard of $5 million is being proposed for the architectural services industry. The average firm size of an architectural firm is similar to those of the average firm size of industries in the nonmanufacturing anchor group, and supports a size standard of $5 million. For the industry factor which looks at the distribution of firms, firms at the three specified size classes for architectural services obtained a moderately higher proportion of sales than similar sized firms within the nonmanufacturing anchor group. This factor supports a size standard at or slightly below $5 million. The industry factor of payroll to sales reveals that the architectural services industry is more labor intensive than the nonmanufacturing anchor group. This factor indicates that start-up costs are relatively low and would support a size standard of not more than $5.0 million. The four-firm concentration ratio is below the ratio for the nonmanufacturing anchor group, and supports a size standard at or below $5 million. A size standard higher than the current $2.5 million size standard is supportable in light of the relatively low share of Federal procurement dollars awarded to small architectural firms during fiscal years 1995–96. At the current size standard, small businesses account for 52 percent of industry sales but received only 25.5 percent of Federal contracting dollars. The SBA believes that since the industry characteristics are at or slightly below the characteristics of the nonmanufacturing anchor group, and since a wide disparity exists between industry sales to small business and the share of Federal contract awards, the $5 million anchor size standard is appropriate for this industry. This size standard is above the standard that would have been established in 1994 for this industry if the SBA had had the authority to change it then based upon inflation since the time of the previous adjustment in 1984.

**Surveying Services (SIC Code 8713)**

A size standard of $3.5 million is being proposed for the surveying services industry. The average firm size of a surveying firm is significantly below the average firm size of industries in the nonmanufacturing anchor group, and supports a size standard of less than $5 million. For the industry factor which looks at the distribution of firms, firms at the three specified size classes for surveying services obtained a significantly higher proportion of sales than similar sized firms within the nonmanufacturing anchor group. This factor also supports a size standard below $5 million. The industry factor of payroll to sales reveals that the surveying services industry is more labor intensive than the nonmanufacturing anchor group. This factor indicates that start-up costs are relatively low and would support a size standard of not more than $5.0 million. The four-firm concentration ratio is below the ratio for the nonmanufacturing anchor group, and supports a size standard at or below $5 million. Similar to architectural services, there exists a wide disparity between the value of Federal contracts awarded to small surveying firms and industry sales produced by these firms. Small surveying firms account for approximately 80 percent of total industry sales but received only 26.8 percent of Federal contracting dollars spent for surveying. The SBA believes that due to the discrepancy between the small business share of total industry sales and Federal Government contracts, an increase to the current size standard is warranted, but one which is less than the nonmanufacturing anchor size standard. Based on these considerations, the SBA is proposing a size standard of $3.5 million. This size standard is consistent with the standard that would have been established in 1994 for this industry if the SBA had had the authority to change it then based upon inflation since the time of the previous adjustment in 1984.

**Mapping Services (Part of SIC Code 7389)**

The size standard of $3.5 million is being retained for mapping services included within SIC code 7389, Business Services, Not Elsewhere Classified. Surveying and mapping are closely related activities, and the SBA believes that mapping services should have the same size standard as proposed in this rule for surveying services. In its revision to the definition of industries as published in April of 1997, the Office of Management and Budget recognized the closely related nature of these two services by creating a new industry under the North American Industry Classification System titled ''Surveying and Mapping'' (see 62 FR 17288, April 9, 1997). This industry is constructed by combining the mapping services activities within SIC code 7389 with all of the surveying services activities within SIC code 8713. In addition, the SBA has found that Federal contracts for mapping services have been classified under both SIC codes 7389 and 8713. Between 1995 and 1996, 61 percent of mapping services contracts were classified under SIC code 7389 and 39 percent were classified under SIC code 8713. Since surveying and mapping services are closely related, the SBA is proposing a common size standard for these two services.

**Dominant in Field of Operation**

Section 3(a) of the Small Business Act defines a small concern as one that is independently owned and operated, not dominant in its field of operation, and meets detailed definitions or standards established by the Administrator of the SBA. In lieu of a separate small business eligibility criterion, the SBA includes as part of its evaluation of a size standard whether a concern at or below a recommended size standard would be considered dominant in its field of operation. This assessment generally takes into consideration the market share of firms at a recommended size standard or other factors that may reveal if a firm can exercise a major controlling influence on a national basis in which significant numbers of business concerns are engaged.

The SBA has determined that at the recommended size standards of $7.5 million for general engineering services, $5 million for architectural services, and $3.5 million for surveying and mapping industries, no firm at or below those levels would be of a sufficient size to be dominant in its field of operation. Firms at the proposed size standards generate less than 0.25 percent of total industry sales. This level of market share effectively precludes any ability by a firm to exert a controlling effect on the industry.

**Alternative Size Standards**

The SBA considered two alternative size standards for these industries. The first alternative considered was retaining a common size standard for all three industries. The general engineering, architectural, and surveying services industries fall under a three-digit industry group, and presently have a common size standard of $2.5 million. The $5 million anchor size standard would be an appropriate standard if a common size standard were believed to be more suitable for these three industries. When combined together, the industry characteristics are similar to the average characteristics of the nonmanufacturing anchor group. As

presented in the industry evaluations, significant differences exist between the structure of the engineering industry, the architectural, and the surveying and mapping industries. The SBA believes that these differences are of significant magnitudes to warrant different size standards among the three industries.

The second alternative considered was adjusting these size standards only for inflation similar to the adjustment applied to most receipts-based size standards in 1994 (61 FR 3280). Under this alternative, the $2.5 million size standard would be increased to $3.5 million. The SBA believes, however, that these industries should be thoroughly reviewed to determine the most appropriate size standard rather than applying a simple inflation adjustment. Moreover, the SBA believes that the unique history of these size standards and the special attention they have received under the Small Business Competitiveness Program compel a closer level of scrutiny for these industry size standards than for most other industries.

The SBA welcomes public comments on the proposed size standards for the general engineering, architectural, surveying and mapping services industries. Comments on any of the alternatives to the proposal, including those discussed above, should present the reasons why it is preferable to the proposed size standards.

**Compliance With Executive Orders 12612, 12788, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and the Paperwork Reduction Act (44 U.S.C. Chapter 301 et seq.)**

The SBA certifies that this rule, if adopted, would be a significant rule within the meaning of Executive Order 12866. Immediately below, the SBA has set forth an initial regulatory impact analysis of this proposed rule.

*(1) Description of Entities to Which the Rule Applies*

SBA estimates that 2,215 additional firms would be considered small as a result of this rule, if adopted. These firms would be eligible to seek available SBA assistance provided they meet other program requirements. Many of these firms probably had small business status in 1986 when these size standards were established at $2.5 million, but have since lost eligibility because of general price increases. Of the 2,215 additional firms gaining eligibility, 1,747 operate in engineering services, 428 operate in architectural services while 40 operate in surveying services. Firms becoming eligible for SBA assistance as a result of this rule cumulatively generate $8.5 billion in annual sales, while total sales in these industries are $77.5 billion. Of the $8.5 billion for newly eligible firms, $6.9 billion are in engineering services, $1.4 billion are in architectural services and $50 million are in surveying services.

*(2) Description of Potential Benefits of the Rule*

The most significant areas of benefits to businesses which could obtain small business status as a result of adoption of this rule is eligible for the Federal Government's procurement programs and the SBA's Business Loan Program. The SBA estimates that firms gaining small business status could potentially obtain Federal contracts worth $167 million per year under the Small Business Set-aside Program, the 8(a) Program, or unrestricted contracts. Also, the additional competition for many of these procurements would likely result in a lower price to the Government for procurements which have been set aside, but the SBA is not able to quantify this benefit. Under the SBA's 7(a) Guaranteed Loan Program, it is estimated that $9.2 million in new loans could be made to these newly defined small businesses and an additional $2.7 million in loans under the Certified Development Company (504) Program.

*(3) Description of Potential Costs of the Rule*

The changes in size standards as they affect Federal procurement is not expected to add any significant costs to the Government. As a matter of policy, procurements may be set aside for small business or under the 8(a) Program only if awards are expected to be made at reasonable prices. Similarly, the rule should not result in any added costs associated with the 7(a) and 504 loan programs. The amount of lending authority SBA can make or guarantee is established by appropriation. The competitive effects of size standard revisions differ from those normally associated with other regulations which typically burden smaller firms to a greater degree than larger firms in areas such as prices, costs, profits, growth, innovation and mergers. The change to size standards is not anticipated to have any appreciable affect on any of these factors, although small businesses or 8(a) firms much smaller than the size standard for their industries may be less successful in competing for some Federal procurement opportunities due to the presence of larger, newly defined small businesses. On the other hand, with more and larger small businesses competing for small business set-aside and 8(a) procurements, contracting agencies are likely to increase the overall number of contacting opportunities available under these programs. In addition, the new size standards, if adopted, would not impose a regulatory burden because they do not regulate or control business behavior.

*(4) Description of the Potential Net Benefits From the Rule*

Based on the above discussion, SBA believes that, because the potential costs of this rule are minimal, the potential net benefits would be approximately equal to the total potential benefits. Most of the impact of this rule will appear in the Federal procurement area.

*(5) Description of Reasons Why This Action is Being Taken and Objectives of Rule*

The SBA has provided in the supplementary information a statement of the reasons why these new size standards should be established and a statement of the reasons for and objectives of this rule.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, the SBA certifies that this rule would not impose new reporting or recordkeeping requirements, other than those required of SBA. For purposes of Executive Order 12612, the SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12778, the SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of this order.

**List of Subjects in 13 CFR Part 121**

Government procurement, Government property, Grant programs—business. Loan programs—business. Small business.

Accordingly, part 121 of 13 CFR is proposed to be amended as follows:

**PART 121—[AMENDED]**

1. The authority citation of part 121 continues to read as follows:

**Authority:** 15 U.S.C. 632(a), 634(b)(6), 637(a), and 644(c), and 662(5).

**§ 121.201 [Amended]**

2. In § 121.201, in the table ''Size Standards by SIC Industry,'' under the heading DIVISION I—SERVICES, is amended by revising the entries corresponding to 8711, 8712, and 8713 to read as follows:

| | |
|---|---|
| 8711 Engineering Services | $7.5 |
| Military and Aerospace Equipment and Military Weapons | 20.0 |
| Contracts and Subcontracts for Engineering Services Awarded Under the National Energy Policy Act of 1992 | 20.0 |
| Marine Engineering and Naval Architecture | 13.5 |
| 8712 Architectural Services (Other than Naval) | 5.0 |
| 8713 Surveying Services | 3.5 |

Dated: December 23, 1997.

**Aida Alvarez,**

*Administrator.*

[FR Doc. 98–2609 Filed 2–2–98; 8:45 am]

**BILLING CODE 8025–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[WV026–6004; FRL–5957–7]**

## Approval and Promulgation of Air Quality Implementation Plans; Approval Under Section 112(l) of the Clean Air Act; West Virginia; Revisions to Minor New Source Review and Addition of Minor Operating Permit Programs

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve in part and disapprove in part a State Implementation Plan (SIP) revision submitted by the State of West Virginia. This SIP revision changes portions of West Virginia's minor new source review permit program and establishes new provisions for permitting existing stationary sources. This action proposes to disapprove a new exemption from minor new source review for sources which have been issued permits pursuant to the State's operating permits program developed pursuant to Title V of the Clean Air Act (''the Act''). This action also proposes to disapprove the provisions governing the issuance of temporary construction and modification permits. This action proposes to approve all other provisions of West Virginia's minor new source review and existing stationary source operating permit program. The intended effect of this action is to propose approval of those State provisions which meet the requirements of the Clean Air Act, and disapprove those State provisions which do not. This action is being taken under section 110 of the Clean Air Act. EPA is also proposing approval of West Virginia's minor new source review and existing stationary source operating permit program pursuant to Section 110 of the Act for the purpose of creating federally enforceable permit conditions for sources of criteria air pollutants. EPA is also proposing approval of West Virginia's minor new source review and existing stationary source operating permit program under section 112(l) of the Clean Air Act in order to extend the Federal enforceability of State permits to include hazardous air pollutants (HAPs).

**DATES:** Comments must be received on or before March 5, 1998.

**ADDRESSES:** Comments may be mailed to Kathleen Henry, Chief, Permit Programs Section, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107 and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

**FOR FURTHER INFORMATION CONTACT:** Jennifer M. Abramson,(215) 566–2066, or by e-mail at Abramson.Jennifer@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. Minor New Source Review*

Section 110(a)(2)(C) of the CAA requires every SIP to ''include a program for the * * * regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved.'' EPA's regulations now codified at § § 51.160 through 51.164 have since the early 1970s required a new source review (NSR) program, and one is included in every state implementation plan (SIP). This requirement predates and is separate from the requirement also set forth in section 110(a)(2)(C) that States have ''major'' NSR permitting programs under part C for the prevention of significant deterioration of air quality (PSD) and part D for nonattainment area permitting (nonattainment NSR) of title I.

*B. Federally Enforceable State Operating Permit Programs*

Many stationary source requirements of the CAA apply only to ''major sources''. Major sources are those sources whose emissions of air pollutants exceed threshold emissions levels specified in the Act. To determine whether a source is major, the Act focuses not only on a source's actual emissions, but also on its potential emissions. Thus, a source that has maintained actual emissions at levels below the major source threshold could still be subject to major source requirements if it has the potential to emit major amounts of air pollutants. However, in situations where unrestricted operation of a source would result in a potential to emit above major-source levels, such sources may legally avoid program requirements by taking federally-enforceable permit conditions which limit emissions to levels below the applicable major source threshold, becoming what is termed a ''synthetic minor'' source. [1]Federally-enforceable permit conditions, if violated, are subject to enforcement by the Environmental Protection Agency (EPA) or by citizens in addition to the state or local agency. On June 28, 1989, EPA published guidance on the basic requirements for EPA approval of (non-title V) federally enforceable state operating permit programs (FESOPPs). See 54 FR 27274. Permits issued pursuant to such programs may be used to establish federally enforceable limits on a source's potential emissions to create ''synthetic minor'' sources.

*C. Federally Enforceable Permit Conditions for Hazardous Air Pollutants*

Section 112(l) of the Act provides EPA with the authority to approve state programs which regulate sources of HAPs, analogous to the section 110 authority provided to EPA for sources of criteria air pollutants. EPA believes it

[1] Several other mechanisms for major sources to become ''synthetic minors'' and legally avoid major source program requirements exist. For more information, refer to the memorandums entitled ''Extension of January 25, 1995 Potential to Emit Transition Policy'' (August 28, 1996), ''Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit'' (January 22, 1996), ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source under Section 112 and Title V of the Clean Air Act (Act)'' (January 25, 1995), and ''Approaches to creating Federally-Enforceable Emissions Limits'' (November 3, 1993).